

May 19, 2006

Mr. Bill Moore  
Washington Department of Ecology  
Water Quality Program  
PO Box 47696  
Olympia, WA 98504-7696

Dear Mr. Moore:

The Boeing Company appreciates the opportunity to provide comments on the Phase 1 and Phase 11 draft Municipal Stormwater General Permit (MSWGP) for Western Washington. Although we are not a direct permittee covered by this National Pollution Discharge System (NPDES) permit, the company does have industrial and construction sites stormwater discharges to municipal separate stormwater sewer systems (MS4) that are in the jurisdictions covered by the permit.

Our primary goal in providing comments is to ensure that our concerns with the additional requirements on our sites and discharges located in these jurisdictions are adequately considered in the issuance of the final permit.

Ecology's stormwater NPDES general permits for industries, construction sites and municipal stormwater should be integrated and complementary to each other. These programs have a common goal of protecting and enhancing water quality in our state in a manner that recognizes the particular challenges in controlling stormwater. Some of these challenges are related to the practices and technologies to control stormwater pollutants in a manner that is scientifically credible and implementable in a practical manner. Other challenges are related to the fact that regardless of the originating source, many of the stormwater streams are co-mingled prior to discharge. There are also overarching issues of equity in how the permits address compliance with the Clean Water Act (CWA) and state water quality standards and related statutes and rules.

The following attachments contain comments on specific sections of the draft permit focus on these challenges:

- 1) treatment of existing and new discharges;
- 2) demonstrating compliance with standards; and
- 3) monitoring requirements.

We look forward to a productive dialogue on these issues toward creating a permit that if effective, efficient and enforceable in the control of municipal

stormwater discharges and protection of the environment. Please contact the me or Mel Oleson (253) 988-0378 or Susanne McIlveen (206) 856-9054

Sincerely,

Kirk J. Thomson  
Director, Boeing Environmental Affairs  
206 930-2161

(3) Attachments

## **Attachment 1 to Boeing Comment Letter on Municipal Stormwater General Permit**

### **1) Treatment of Existing and New Discharges**

#### Issue defined

Draft permit S.4 In the preliminary draft Ecology proposed to treat new and existing discharges differently. Existing dischargers would be required to meet Maximum Extent Practicable (MEP) however new dischargers would be required to comply with applicable water quality standards and demonstrate this compliance prior to obtaining permit coverage. The draft makes no distinction between new and existing discharges.

It has been Ecology's long held policy and practice to include separate more stringent requirements for new discharges in NPDES permits, both individual and general. This practice is based on the premise that new discharges cannot be allowed that would cause or contribute to a violation of water quality standards.

The draft proposes to eliminate any distinction between existing and new discharges. All discharges are required only to "make progress" towards compliance. This progress is demonstrated by compliance with the permit.

#### Comment:

We recognize the special challenges inherent in distinguishing between new and existing municipal discharges at this time. However the decision not to require more stringent conditions for new municipal stormwater discharges creates both an inequity in how permittees must control and treat stormwater from these different sources, and a difference in the ultimate water quality of the water bodies receiving these discharges. The industrial and construction stormwater general permits (ISWGP and CSWGP respectively) require that new and existing discharges meet different permit requirements. In particular new discharges covered by these permits must meet specific limits for discharges to waterbodies that are listed as impaired for any applicable pollutant pursuant to the state's current CWA 303(d) list. Some of the ISWGP and CSWGP new discharges are discharges to the municipal collection systems that ultimately discharge to the listed waterbody. While the flows contributed by the ISWGP and CSWGP new discharges are required to meet the effluent limit for the listed pollutant, the municipal discharge that actually discharges to that waterbody would not be required to meet similar limits.

The Fact Sheet states that distinguishing between new and existing municipal stormwater discharges is "often difficult to make and the requirements {proposed in the preliminary draft} might make otherwise beneficial projects impossible to implement." While this statement may be sustainable, it does not fully explain why Ecology chose to remove the distinction and how the draft permit still would

comply with state and federal water quality statutes and rules.

Recommendation

Ecology should consider how the municipal stormwater general permit (MSWGP) will eventually ensure that listed waterbodies are not further degraded by municipal stormwater discharges. The MSWGP relies on an adaptive management approach to compliance. The MSWGP could include site specific monitoring and benchmarks for the listed pollutants from all municipal stormwater discharges to listed impaired water bodies and use that monitoring data to determine the effectiveness of BMPS and other controls to control the specific pollutants of concern.

This approach could significantly improve the quality of the discharge related to the pollutant(s) of concern in a timelier manner and demonstrate that the municipal permittee are addressing antidegradation requirements. It would also at least partially address the concern that other point sources are bearing more of the burden of achieving water quality standards in these impaired waterbodies.

## **Attachment 2 to Boeing Comment Letter on Municipal Stormwater General Permit**

### **2) Demonstrating Compliance with Standards**

#### **Issue defined**

As discussed above, the preliminary draft proposed to treat new discharges more stringently than existing discharges. The draft permit makes no distinction between new and existing discharges regarding demonstration of compliance with standards. Basically compliance with standards to “meet the goals of the Clean Water Act and make progress towards compliance with applicable standards,” means compliance with the terms of the permit.

#### **Comment**

The requirement to comply with water quality standards (and groundwater and sediment standards) is a basic requirement of all NPDES permits. How to demonstrate compliance and when compliance must be demonstrated are important considerations in all stormwater general permits. Ecology seems to be saying that municipal stormwater covered under the general permit can demonstrate compliance with S4.C and D and show ‘progress towards compliance with applicable ...standards’ by complying with the requirements of the permit. It does not establish a compliance schedule for meeting those standards. Rather it is assumed that stormwater Best Management Practices (BMP) and treatment controls implemented to “the maximum extent practicable” will be adequate to demonstrate this progress.

Condition S4F authorizes Ecology to modify, revoke or reissue the general permit only if it identifies BMPs or other controls that are necessary to reduce or control the discharge to MEP and/or to meet AKART or to control the discharge of toxicants. It does not say that Ecology can take these actions if site specific information indicates that water quality standards are not being met by the discharge.

The draft permit also does not describe how the municipal permittees will demonstrate compliance with S4.A and B.

#### **Recommendation**

The need to ensure eventual compliance with state water quality standards as required in S4 A and B should be addressed in the final permit. This challenge illustrates the problems with applying MEP as mandated by the CWA and meeting stricter state requirements for compliance.

Although this is a MSWGP issue these compliance considerations also relates to discharges covered by the ISWGP and CSWGP which contain adaptive management conditions with monitoring benchmarks that will ensure compliance with water quality standards. These benchmark monitoring requirements and

adaptive management conditions apply to ISWGP and CSWGP discharges to MSWGP collection systems and to shared receiving waterbodies. The ISWGP and CSWGP have an interest in how Ecology will require compliance with the same standards in municipal permits over time.

The MSWGP seems to contain similar state compliance requirements without conditions to eventually achieve compliance. Ecology should consider whether a similar benchmark based approach could be incorporated into this permit or subsequent municipal permits. A review of other states' municipal permits might assist in developing alternative approaches. At a minimum, Ecology should consider revising the monitoring program to target municipal stormwater discharges that are reasonably expected to contain toxicants and other pollutants of concern and including the specific authority to revoke or modify the municipal permit coverage if site specific information indicates that water quality standards are not being met.

## **Attachment 3 to Boeing Comment Letter on Municipal Stormwater General Permit**

### **3) Monitoring Requirements**

#### Issue Defined

In the draft MSWGP, Ecology has established requirements for permittee long-term monitoring of water quality.

#### Comment

The draft does not specifically require receiving water monitoring, but appears to replace this condition with a stormwater management program effectiveness monitoring that would include more generic receiving water characterization to demonstrate the effectiveness of the overall program in improving water quality.

Monitoring to identify the degree to which stormwater discharges are impacting selected receiving water and sediments will not be required in this permit.

Ecology intends to rely on its own monitoring programs and those voluntary programs of local entities to accomplish this objective.

#### Recommendation

The costs of monitoring, particularly to identify specific sources of pollution and their impacts on receiving waters can be extremely high. Ecology should ensure that any receiving water monitoring to address municipal discharges also can assist other stormwater discharges in meeting their permit conditions. This is particularly important if state general funds rather than specific NPDES permit fees are the funding source.